

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TYRONE NOEL NUNN,

Plaintiff,

v.

CITY JAIL VEGAS, et al.,

Defendants.

Case No. 3:24-cv-00433-ART-CSD

DISMISSAL ORDER

Plaintiff Tyrone Noel Nunn brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated. (ECF No. 1-1.) On September 24, 2024, this Court ordered Plaintiff to file a fully complete application to proceed *in forma pauperis* or pay the full \$405 filing fee on or before November 22, 2024. (ECF No. 3.) The Court warned Plaintiff that the action could be dismissed if he failed to file a fully complete application to proceed *in forma pauperis* with all three documents or pay the full \$405 filing fee for a civil action by that deadline. (*Id.* at 2.) That deadline expired and Plaintiff did not file a fully complete application to proceed *in forma pauperis*, pay the full \$405 filing fee, or otherwise respond. Additionally, mail being sent to Plaintiff is being returned as undeliverable. (ECF Nos. 4, 5, 6.)

I. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. *See Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of

1 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987)
2 (dismissal for failure to comply with court order). In determining whether to
3 dismiss an action on one of these grounds, the Court must consider: (1) the
4 public's interest in expeditious resolution of litigation; (2) the Court's need to
5 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
6 favoring disposition of cases on their merits; and (5) the availability of less drastic
7 alternatives. See *In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217,
8 1226 (9th Cir. 2006) (quoting *Malone*, 833 F.2d at 130).

9 The first two factors, the public's interest in expeditiously resolving this
10 litigation and the Court's interest in managing its docket, weigh in favor of
11 dismissal of Plaintiff's claims. The third factor, risk of prejudice to defendants,
12 also weighs in favor of dismissal because a presumption of injury arises from the
13 occurrence of unreasonable delay in filing a pleading ordered by the court or
14 prosecuting an action. See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir.
15 1976). The fourth factor—the public policy favoring disposition of cases on their
16 merits—is greatly outweighed by the factors favoring dismissal.

17 The fifth factor requires the Court to consider whether less drastic
18 alternatives can be used to correct the party's failure that brought about the
19 Court's need to consider dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983,
20 992 (9th Cir. 1999) (explaining that considering less drastic alternatives *before*
21 the party has disobeyed a court order does not satisfy this factor); accord
22 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that
23 “the persuasive force of” earlier Ninth Circuit cases that “implicitly accepted
24 pursuit of less drastic alternatives prior to disobedience of the court's order as
25 satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled
26 with the warning of dismissal for failure to comply[,]” have been “eroded” by
27 *Yourish*). Courts “need not exhaust every sanction short of dismissal before
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1 finally dismissing a case, but must explore possible and meaningful
2 alternatives.” *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986).
3 Because this action cannot realistically proceed until and unless Plaintiff either
4 files a fully complete application to proceed *in forma pauperis* or pays the \$405
5 filing fee for a civil action, the only alternative is to enter a second order setting
6 another deadline. But the reality of repeating an ignored order is that it often
7 only delays the inevitable and squanders the Court’s finite resources. The
8 circumstances here do not indicate that this case will be an exception: there is
9 no hint that Plaintiff needs additional time.

10 Plaintiff has filed over 80 pro se lawsuits in this district since July 2023.¹
11 Dozens of these lawsuits have been dismissed because Plaintiff failed to correct
12 fundamental defects with them such as paying the filing fee or filing a complete
13 application to proceed *in forma pauperis*. Thus, Plaintiff has been informed
14 numerous times how to file a complete application to proceed *in forma pauperis*.
15 Additionally, in each of Plaintiff’s cases, including this case, Plaintiff has been
16 issued an advisory letter informing him to immediately file a written notice of
17 change of address if he moves to a new institution or is released on parole. (See
18 ECF No. 2 at 1). Setting another deadline is not a meaningful alternative given
19 these circumstances. So the fifth factor favors dismissal.

20 **II. CONCLUSION**

21 Having thoroughly considered these dismissal factors, the Court finds that
22 they weigh in favor of dismissal. It is therefore ordered that this action is
23 dismissed without prejudice based on Plaintiff’s failure to file a fully complete
24 application to proceed *in forma pauperis* or pay the full \$405 filing fee in
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26 ¹ The Court takes judicial notice of the online docket records of the U.S. Courts, which may be
27 accessed by the public at: <https://pacer.uscourts.gov>.
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1 compliance with this Court's September 25, 2024, order. The Clerk of Court is
2 directed to enter judgment accordingly and close this case. No other documents
3 may be filed in this now-closed case. If Plaintiff wishes to pursue his claims, he
4 must file a complaint in a new case and pay the filing fee or file a complete
5 application to proceed *in forma pauperis*.

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7 Dated this 5th day of December, 2024
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11 ANNE R. TRAUM
12 UNITED STATES DISTRICT JUDGE
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